

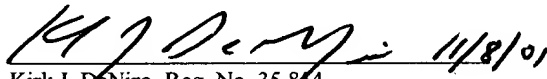


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application)	<u>PATENT APPLICATION</u>
)	
Inventors: Mark Bunger, Michael Reiling, Michael)	Art Unit: 2161
Comb, Ed Bank, Michael McCaffery,)	
Carolee Reilingand Juan Carlos Velten)	
)	
Serial No.: 09/822,961)	Examiner: Unknown
)	
Filed: March 30, 2001)	
)	
For: A METHOD, SYSTEM, AND COMPUTER)	<u>Customer No. 28554</u>
READABLE MEDIUM FOR FACILITATING A)	
TRANSACTION BETWEEN A CUSTOMER,)	
A MERCHANT AND AN ASSOCIATE)	

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, Washington, DC 20231, on November 8, 2001.


Kirk J. DeNiro, Reg. No. 35,854
Signature Date: November 8, 2001

RECEIVED

JAN 15 2002

OFFICE OF PETITIONS

STATEMENT OF EDWARD BANK IN SUPPORT OF
PETITION TO FILE PATENT APPLICATION WHEN
AN INVENTOR, MICHAEL MCCAFFERY, CANNOT BE REACHED
OR FOUND TO SIGN THE DECLARATION UNDER 37 C.F.R. §1.47(a)

I, Edward Bank, declare that:

1. Michael McCaffery was an employee of Softcoin, Inc. as evidenced by his employee agreement, entitled "Softcoin, Inc. Employment, Confidential Information and Invention Assignment Agreement" which he endorsed December 3, 1999, attached herewith as Exhibit "A".

2. Michael McCaffery resigned his position at Softcoin, Inc. on January 28, 2000.
3. Michael McCaffery is an inventor to the patent application entitled "A Method, System, and Computer Readable Medium for Facilitating a Transaction Between a Customer, a Merchant and an Associate", Serial No. 09/822,961, filed March 30, 2001 (the "Patent Application").
4. On or about June 22, 2001, Erika Adams, Office Manager (hereinafter "Ms. Adams"), sent a letter to Michael McCaffery's last known address:

535 Burnett Avenue, #6
San Francisco, California 94131

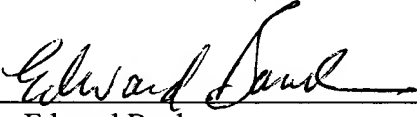
regarding obtaining his signature for the Declaration in connection with the Patent Application as evidenced by Exhibit "B" attached herewith. She received no response.

5. On or about June 22, 2001, Ms. Adams telephoned Michael McCaffery at his home number, (415) 641-9366, to obtain his signature for the Declaration in connection with the Patent Application. The telephone operator told her that his number is no longer in use.
6. On or about June 22, 2001, Ms. Adams telephoned Michael McCaffery's last known cellular telephone number, (415) 819-9669, and got a message saying the telephone number had been changed. She then called the new number, (412) 303-3363, and heard a woman's voice. She left a message and got no response as evidenced by Exhibit "C" attached herewith.
7. On or about June 22, 2001, Ms. Adams contacted 411 in an attempt to obtain Michael McCaffery's telephone number and found no listing for a Michael McCaffery in San Francisco as evidenced by Exhibit "C" attached herewith.
8. On or about June 23, 2001, Ms. Adams contacted Persistence Software, Michael McCaffery's last known employer, and was told he no longer worked at Persistence Software and they could not give her his forwarding telephone number and/or address, as evidenced by Exhibit "D" attached herewith.

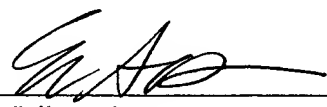
9. On or about June 22, 2001, Ms. Adams e-mailed Michael McCaffery at mike_mccaffrey@hotmail.com and got no response, as evidenced by Exhibit "E" attached herewith.
10. On or about June 22, 2001, Ms. Adams e-mailed Michael McCaffery at mikem@persistence.com and the e-mail was returned unopened, as evidenced by Exhibit "F" attached herewith.
11. On or about June 22, 2001, Ms. Adams e-mailed Michael McCaffery at mmccaffrey@persistence.com and the e-mail was returned unopened, as evidenced by Exhibit "G" attached herewith.
12. On or about June and October 25, 2001, Ms. Adams searched for Michael McCaffery using Lycos Network and was unable to locate the correct Michael McCaffery, as evidenced by Exhibit "H" attached herewith.
13. On or about June and October 25, 2001, Ms. Adams searched for Michael McCaffery using infospace and was unable to locate the correct Michael McCaffery, as evidenced by Exhibit "I" attached herewith.
14. On or about June and October 25, 2001, Ms. Adams searched for Michael McCaffery using Yahoo! People Search and was unable to locate the correct Michael McCaffery, as evidenced by Exhibit "J" attached herewith.
15. On or about June and October 25, 2001, Ms. Adams searched for Michael McCaffery using WhitePages and was unable to locate the correct Michael McCaffery, as evidenced by Exhibit "K" attached herewith.

16. I understand that this Statement will be filed in the United States Patent and Trademark Office in order to provide satisfactory evidence indicating the non-signing inventor, Michael McCaffery, cannot be reached or found to sign the Declaration of the above-identified application after diligent efforts on our part.

Date: Nov 5, 2001

By: 
Edward Bank
Vice President of Engineering

Date: 11/5/01

By: 
Erika Adams
Office Manager

RECEIVED
JAN 15 2002
OFFICE OF PETITIONS

SOFTCOIN, INC.**EMPLOYMENT, CONFIDENTIAL INFORMATION AND
INVENTION ASSIGNMENT AGREEMENT**

As a condition of my employment with SoftCoin, Inc., its subsidiaries, affiliates, successors or assigns (together the "Company"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company, I agree to the following:

1. ***At-Will Employment.*** I understand and acknowledge that my employment with the Company is for an unspecified duration and constitutes "at-will" employment. I acknowledge that this employment relationship may be terminated at any time, with or without good cause or for any or no cause, at the option either of the Company or myself, with or without notice.

2. ***Confidential Information.***

(a) ***Company Information.*** I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information (as defined below) of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) ***Former Employer Information.*** I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) ***Third Party Information.*** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as

necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

3. ***Inventions.***

(a) ***Inventions Retained and Licensed.*** I have attached hereto, as **Exhibit A**, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(b) ***Assignment of Inventions.*** I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protectible by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

(c) ***Inventions Assigned to the United States.*** I agree to assign to the United States government all my right, title, and interest in and to any and all Inventions whenever such full title is required to be in the United States by a contract between the Company and the United States or any of its agencies.

(d) ***Maintenance of Records.*** I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

(e) ***Patent and Copyright Registrations.*** I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and

all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) *Exception to Assignments.* I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention which qualifies fully under the provisions of California Labor Code Section 2870 (attached hereto as **Exhibit B**). I will advise the Company promptly in writing of any inventions that I believe meet the criteria in California Labor Code Section 2870 and not otherwise disclosed on **Exhibit A**.

4. *Conflicting Employment.* I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. *Returning Company Documents.* I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as **Exhibit C**.

6. *Notification of New Employer.* In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. *Solicitation of Employees.* I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to

solicit, induce, recruit, encourage or take away employees of the Company, either for myself or for any other person or entity.

8. **Solicitation of Customers.** I agree that during my employment relationship with the Company and for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not directly or indirectly, either for myself or for any other person, firm, or corporation, divert or take away or attempt to divert or take away, call on or solicit or attempt to call on or solicit, any of the Company's customers, including but not limited to those on whom I called or whom I solicited or with whom I became acquainted while engaged as an employee in the Company's business.

9. **Conflict of Interest Guidelines.** I agree to diligently adhere to the Conflict of Interest Guidelines attached as **Exhibit D** hereto.

10. **Representations.** I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

11. **Arbitration.**

(a) I agree that any dispute or controversy arising out of, relating to, or in connection with this Agreement, or the interpretation, validity, construction, performance, breach, or termination thereof, shall be settled by binding arbitration to be held in Santa Clara County, California in accordance with the commercial arbitration rules then in effect of the American Arbitration Association (the "Rules"). The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction.

(b) The arbitrator(s) shall apply California law to the merits of any dispute or claim, without reference to rules of conflicts of law. The arbitration proceedings shall be governed by federal arbitration law and by the Rules, without reference to state arbitration law. I hereby consent to the personal jurisdiction of the state and federal courts located in California for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the parties are participants.

(c) The Company and I shall each pay one-half of the costs and expenses of such arbitration, and each shall separately pay its counsel fees and expenses.

(d) I understand that nothing in section 11 modifies my at-will status. Either I or the Company can terminate the employment relationship at any time, with or without cause.

(e) I HAVE READ AND UNDERSTAND SECTION 11, WHICH DISCUSSES ARBITRATION. I UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I AGREE TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF TO BINDING ARBITRATION, AND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF MY RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ALL ASPECTS OF THE EMPLOYER/EMPLOYEE RELATIONSHIP, INCLUDING BUT NOT LIMITED TO, THE FOLLOWING CLAIMS:

(i) ANY AND ALL CLAIMS FOR WRONGFUL DISCHARGE OF EMPLOYMENT; BREACH OF CONTRACT, BOTH EXPRESS AND IMPLIED; BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING, BOTH EXPRESS AND IMPLIED; NEGLIGENT OR INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS; NEGLIGENT OR INTENTIONAL MISREPRESENTATION; NEGLIGENT OR INTENTIONAL INTERFERENCE WITH CONTRACT OR PROSPECTIVE ECONOMIC ADVANTAGE; AND DEFAMATION.

(ii) ANY AND ALL CLAIMS FOR VIOLATION OF ANY FEDERAL STATE OR MUNICIPAL STATUTE, INCLUDING, BUT NOT LIMITED TO, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE CIVIL RIGHTS ACT OF 1991, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE AMERICANS WITH DISABILITIES ACT OF 1990, THE FAIR LABOR STANDARDS ACT, THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT, AND LABOR CODE SECTION 201, *et seq.*

(iii) ANY AND ALL CLAIMS ARISING OUT OF ANY OTHER LAWS AND REGULATIONS RELATING TO EMPLOYMENT OR EMPLOYMENT DISCRIMINATION.

12. General Provisions.

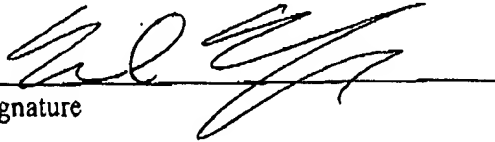
(a) *Governing Law; Consent to Personal Jurisdiction.* This Agreement will be governed by the laws of the State of California. I hereby expressly consent to the personal jurisdiction of the state and federal courts located in California for any lawsuit filed there against me by the Company arising from or relating to this Agreement.

(b) *Entire Agreement.* This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.

(c) *Severability.* If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) *Successors and Assigns.* This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

Date: 12/3/99


Signature

MICHAEL McCARTHY
Name of Employee (typed or printed)

Witness

EXHIBIT ALIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP

<u>Title</u>	<u>Date</u>	<u>Identifying Number or Brief Description</u>
"OFFICIAL VISIBROWLER FOR JAVA HANDBOOK"	APRIL 1999	ISBN-0672-31451-7

☐ No inventions or improvements☐ Additional Sheets Attached

Signature of Employee:



Print Name of Employee:

MICHAEL MCCAFFERTY

Date:

12/3/99

EXHIBIT B**CALIFORNIA LABOR CODE SECTION 2870
EMPLOYMENT AGREEMENTS; ASSIGNMENT OF RIGHTS**

"(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer.

(2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."

EXHIBIT C**SOFTCOIN, INC.
TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to the Company.

I further certify that I have complied with all the terms of the Company's Employment Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Employment, Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date, I will not hire any employees of the Company and I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Date: _____

(Employee's Signature)

(Type/Print Employee's Name)

EXHIBIT D**SOFTCOIN, INC.
CONFLICT OF INTEREST GUIDELINES**

It is the policy of the Company to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees and independent contractors must avoid activities which are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations which must be avoided. Any exceptions must be reported to the President and written approval for continuation must be obtained.

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The Employment, Confidential Information and Invention Assignment Agreement elaborates on this principle and is a binding agreement.)

2. Accepting or offering substantial gifts, excessive entertainment, favors or payments which may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.

3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.

4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.

5. Initiating or approving any form of personal or social harassment of employees.

6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.

7. Borrowing from or lending to employees, customers or suppliers.

8. Acquiring real estate of interest to the Company.

9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.

10. Unlawfully discussing prices, costs, customers, sales or markets with competing companies or their employees.

11. Making any unlawful agreement with distributors with respect to prices.
12. Improperly using or authorizing the use of any inventions which are the subject of patent claims of any other person or entity.
13. Engaging in any conduct which is not in the best interest of the Company.

Each officer, employee and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.

SoftCoin, Inc.
1230 22nd Street
San Francisco, CA 94107
415.401.2800
415.401.2899 fax
www.softcoin.com



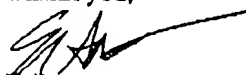
Michael McCaffery
535 Burnett Avenue #6
San Francisco, CA 94131

June 6, 2001

Mr. McCaffery -

We never got a chance to meet, but Ed Bank asked me to contact you in regards to a patent application we need to have signed by you in the next week or so. Not only do need a notary public to witness your signature, but six other members of the Softcoin team need to sign it as well. So...what we're hoping to do is have a notary public come here to the office at 1230 22nd Street and have all seven of you sign it at once. Are you available to come in any time soon to do this? If you could please contact me right away that would be extremely helpful.

Thank you,



Erika Adams
Softcoin, Inc.
415-401-2893

Address Book for Carolee Reiling

McCaffery - McCaffery

M

Michael (Mike) McCaffery

Unfiled

Persistence Software

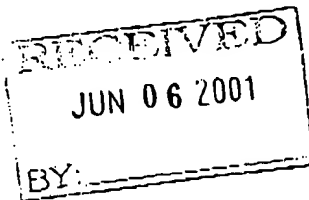
Work: 650-372-3675

Home: 415-641-9366 - ~~disconnected~~

E-Mail: mike_mccaffery@hotmail.com - not working

412 303 3363 - woman's
voice
"I'll get right back
to you"
left message

noon 4/11
in SF



Persistence

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Persistence Software provides enabling technology for distributed data management, allowing Global 2000 corporations to manage data more efficiently while reducing their Infrastructure costs.

Our hearts go
to those that
were affected by the
tragic event

Recent News

- **PowerTier Release 7 for J2EE now available!** [Learn more about Release 7.](#)
- **What's New In PowerTier Release 7 webinar**, available for replay now!
- Persistence **PowerTier is at the heart** of Salomon Smith Barney's next-generation trading system — details in [Trading Technology Week](#).
- **PowerTier is 10 times faster** than the leading competitor — details in [Extreme EJB Performance](#), a Persistence White Paper.
- **PowerTier takes you to the edge** with [Distributed Dynamic Caching for Extreme Applications](#) — a Persistence White Paper.



PowerPartn

Success Sto

Persistence's custo
and partners incl



FedEx

J.P. Morg



INTERSH

Lucent Technologies
Bell Laboratories

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- Persistence to Exceed Third Quarter Guidance and Estimates; Company Targets Pro-Forma Profitability In Q4
- IBM Selects Persistence as an Advanced Business Partner
- Persistence Software Extends the Reach of Corporate Networks with Debut of PowerTier 7.0 Application Server
- Persistence Software Announces Rational Rose® Integration for Java Application Development
- Persistence PowerTier 7.0 Achieves J2EE Compatible Certification Standard

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Persistence Software, Inc. — 1720 South Amphlett Boulevard — San Mateo, CA 94402 USA
Tel: 650.372.3600 — Fax: 650.341.8432 — E-mail: info@persistence.com

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called +
they cannot
give out
personal
info —
he no longer
works there

patent signature

Subject: patent signature**Date:** Wed, 06 Jun 2001 15:12:46 -0700**From:** Erika Adams <eadams@softcoin.com>**Organization:** SoftCoin**To:** mike_mccaffery@hotmail.com

Mike -

We never got a chance to meet, but Ed Bank asked me to contact you in regards to a patent application we need to have signed by you in the next week or so. Not only do need a notary public to witness your signature, but six other members of the Softcoin team need to sign it as well. So...what we're hoping to do is have a notary public come here to the office at 1230 22nd Street and have all seven of you sign it at once. Are you available to come in any time soon to do this?

Thank you,

Erika Adams
Softcoin, Inc.
415-401-2893

*no
response*

EXHIBIT E

(Fwd: Returned mail: User unknown)

Subject: [Fwd: Returned mail: User unknown]**Date: Fri, 22 Jun 2001 10:39:40 -0700****From: Erika Adams <eadams@softcoin.com>****Organization: SoftCoin****To: mikem@persistence.com**

----- Original Message -----

Subject: Returned mail: User unknown

Date: Fri, 22 Jun 2001 10:38:55 -0700 (PDT)

From: Mail Delivery Subsystem <MAILER-DAEMON@firewall.persistence.com>

To: <eadams@softcoin.com>

The original message was received at Fri, 22 Jun 2001 10:38:55 -0700 (PDT)

from ale.softcoin.com [209.11.133.210]

----- The following addresses had permanent fatal errors -----
<mmcaffrey@persistence.com>

----- Transcript of session follows -----

... while talking to omega.persistence.com.:

>>> RCPT To:<mmcaffrey@persistence.com>

<<< 550 <mmcaffrey@persistence.com>... User unknown

550 <mmcaffrey@persistence.com>... User unknown

Reporting-MTA: dns; firewall.persistence.com

Received-From-MTA: DNS; ale.softcoin.com

Arrival-Date: Fri, 22 Jun 2001 10:38:55 -0700 (PDT)

Final-Recipient: RFC822; mmcaffrey@persistence.com

Action: failed

Status: 5.1.1

Remote-MTA: DNS; omega.persistence.com

Diagnostic-Code: SMTP; 550 <mmcaffrey@persistence.com>... User unknown

Last-Attempt-Date: Fri, 22 Jun 2001 10:38:55 -0700 (PDT)

Subject: Softcoin patent**Date: Fri, 22 Jun 2001 10:37:55 -0700****From: Erika Adams <eadams@softcoin.com>****Organization: SoftCoin****To: mmcaffrey@persistence.com**

Mike -

We never got a chance to meet, but Ed Bank asked me to contact you in regards to a patent application we need to have signed by you by the 24th of June. I apologize for the late notice, but you're a tough guy to locate :) We need to have a notary public witness you signing the application, so I was thinking perhaps we could have one come to you or you could go to one and have the document signed. Can you let me know if/when you would have 5 minutes to do this in the next few days?

Thank you,

Erika Adams
Softcoin, Inc.

Subject: Softcoin patent

Date: Fri, 22 Jun 2001 10:37:55 -0700

From: Erika Adams <eadams@softcoin.com>

Organization: SoftCoin

To: mmcaffrey@persistence.com

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Thank you,

Erika Adams
Softcoin, Inc.
415-401-2893

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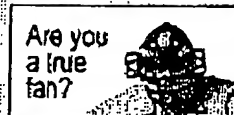
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